

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FABIAN D. SMART,	:	Civil No. 3:19-CV-01783
	:	
Petitioner,	:	
	:	
v.	:	Judge Jennifer P. Wilson
	:	
COMMONWEALTH OF PENNSYLVANIA, <i>et al.</i> ,	:	
	:	
Respondents.	:	Magistrate Judge Martin C. Carlson

ORDER

AND NOW, on this 22nd day of March, 2021, for the reasons stated in the accompanying memorandum, **IT IS ORDERED AS FOLLOWS:**

1. Judge Carlson's report and recommendation (Doc. 10) is **ADOPTED**.
2. The petition (Doc. 1) is **DISMISSED WITH PREJUDICE**.¹
3. A certificate of appealability is **DENIED** because no reasonable jurist would find it debatable that the petition states a valid claim of the denial of a constitutional right or that the court's ruling is incorrect. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
4. The Clerk of Court is directed to close this case.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Court Judge
Middle District of Pennsylvania

¹ Because the court dismisses the petition as untimely rather than as a second or successive petition, dismissal of the petition is with prejudice.